



of this first appeal.

2. The circumstances in which the present appeal has been filed are as under :-

2.1 The appellant claimant was travelling in a luxury bus which met with an accident, and as a result thereof, she lost the vision of one of her eyes. In the circumstances, she filed Motor Accidents Claim Petition No. 1327/86 before the Motor Accidents Claims Tribunal (Auxi.), Kheda Dist. at Nadiad, claiming a sum of Rs. 58,100/- by way of compensation from the present opponents. After considering the evidence, the Tribunal was of the view that the appellant claimant was entitled to a sum of Rs. 75,000/- by way of compensation, but, as the appellant claimant had claimed only Rs. 58,100/-, a sum of Rs. 58,100/- was awarded by way of compensation and in addition thereto, interest was also awarded on the said amount.

3. Being aggrieved by the order, the claimant has approached this court by way of the present first appeal. It is pertinent to note some developments which had taken place during pendency of the first appeal. The Division Bench of the Bombay High Court in case of Municipal Corporation of Greater Bombay v. Hissan Gangaram, 1987 ACJ 311, has held that even if a claimant has claimed lesser amount and if the Tribunal comes to a conclusion that more amount of compensation should be awarded to the claimant, it is open to the Tribunal to award higher amount. The said view expressed by the Division Bench of the Bombay High Court was in conflict with the view expressed by this court in Babu Mansa v. Ahmedabad Municipal Corporation, 19 GLR 592. In view of the said circumstances the present first appeal was referred to a larger bench by an order dated 19.1.1996 and, ultimately, the larger bench came to the conclusion that the Tribunal cannot award compensation higher than the amount claimed in the claim petition. The reference was answered by the Full Bench and it was reported in 2000(2) XLI(2) GLR 1281 (Dr. Urmila J. Sanghani v. Pragjibhai Mohanlal Luvana).

4. Looking to the law laid down in the matter of the claimant herself, in my opinion, it would not be possible to entertain the first appeal for the reason that the amount which was claimed by the claimant appellant has already been awarded by the Tribunal to her. The appellant claimant had claimed a sum of Rs. 58,100/- by way of compensation and the said amount has been duly awarded to her. Simply because the Tribunal came to the

conclusion that more amount could have been awarded to the claimant would not give a right to the appellant claimant to get higher amount.

5. No other point is involved in the present first appeal and as the learned advocate appearing for the appellant claimant had also addressed the Full Bench of this court in the case referred to hereinabove and had taken all possible arguments to convince the court that higher amount than the amount claimed can be awarded, but as he had failed there, in this appeal he has fairly submitted that nothing more requires to be argued by him.

6. As a result, this appeal fails and it is dismissed with no order as to costs.

(hn) (A.R. Dave, J.)